

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Site-Specific Criteria Adjustment for Bayou Chinchuba and Tchefuncte River Wetlands (LAC 33:IX.1123) (WQ049)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1123 (Log #WQ049).

The rule is intended to set site-specific criteria for wetlands in the Bayou Chinchuba and Tchefuncte River watersheds. The included wetlands will receive secondarily treated effluent from the City of Mandeville. This rule will result in the creation of two new subsegments: 040805 (Chinchuba Swamp Wetland) and 040806 (East Tchefuncte Marsh Wetland). Tree, shrub, and/or marsh grass productivity are determined to be the appropriate criteria. Designated uses are secondary contact recreation and fish and wildlife propagation. General and numerical criteria not specifically excepted in LAC 33:IX.1123.Table 3 shall apply. This action is required to establish protective site-specific criteria and designated uses for the affected Bayou Chinchuba and Tchefuncte River wetlands (subsegments 040805 and 040806) in Louisiana's water quality standards. A Use Attainability Analysis (UAA) was conducted in accordance with state and federal water quality regulations, policies, and guidance to develop site-specific criteria and designated uses for the wetland.

Analyses of use attainability are conducted by the department to determine the uses and criteria an individual water body can attain. According to the regulations, a UAA is defined as "a structured scientific assessment of the factors (chemical, physical, biological, and economic) affecting the attainment of designated uses in a water body." (See 40 CFR 131.3(g) and LAC 33:IX.1105.) The UAA process is described in 40 CFR 131.10 and LAC 33:IX.1109.B.3. It entails the methodical collection of data that is then scientifically analyzed and summarized and used to establish site-specific uses and criteria. The basis and rationale for the proposed rule are to establish site-specific criteria and designated uses for the affected Bayou Chinchuba and Tchefuncte River wetlands (subsegments 040805 and 040806), developed as a result of the UAA conducted for the site.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on July 25, 2003, at 1:30 p.m. in the Galvez Building, Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ049. Such comments must be received no later than August 1, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or by e-mail to lynnw@ldeq.org. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of WQ049.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>. It is anticipated that the DEQ Headquarters move from 7290 Bluebonnet Boulevard to 602 N. Fifth Street, Baton Rouge, LA, will be completed by mid-July.

James H. Brent, Ph.D.
Assistant Secretary

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality

Chapter 11. Surface Water Quality Standards

§1123. Numerical Criteria and Designated Uses

A. – C.2. ...

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading “DESIGNATED USES.”

A – Primary Contact Recreation

B – Secondary Contact Recreation

C – Propagation of Fish and Wildlife

L – Limited Aquatic Life and Wildlife Use

D – Drinking Water Supply

E – Oyster Propagation

F – Agriculture

G – Outstanding Natural Resource Waters

Numbers in brackets, e.g. [1], refer to endnotes listed at the end of the table.

Table 3.
Numerical Criteria and Designated Uses

A - Primary Contact Recreation; B - Secondary Contact Recreation; C - Propagation of Fish and Wildlife; D - Drinking Water Supply; E - Oyster Propagation; F - Agriculture; G - Outstanding Natural Resource Waters; L - Limited Aquatic Life and Wildlife Use

Code	Stream Description	Designated Uses	Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
	ATCHAFALAYA RIVER BASIN (01)								

[See Prior Text In 010101 – 031201]									
	LAKE PONTCHARTRAIN BASIN (04)								

[See Prior Text In 040101 – 040804]									
040805	<u>Chinchuba Swamp Wetland – forested wetland located 0.87 miles southwest of the City of Mandeville, southeast of the Sanctuary Ridge, and north of Lake Pontchartrain</u>	<u>B C</u>	[23]	[23]	[23]	[23]	<u>2</u>	[23]	[23]

Table 3. Numerical Criteria and Designated Uses A - Primary Contact Recreation; B - Secondary Contact Recreation; C - Propagation of Fish and Wildlife; D - Drinking Water Supply; E - Oyster Propagation; F - Agriculture; G - Outstanding Natural Resource Waters; L - Limited Aquatic Life and Wildlife Use									
Code	Stream Description	Designated Uses	Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
<u>040806</u>	<u>East Tchefuncte Marsh Wetland – fresh water and brackish marsh located just west of the City of Mandeville, bounded on the south by Lake Pontchartrain, the west by the Tchefuncte River, the north by Highway 22, and the east by the Sanctuary Ridge</u>	<u>B C</u>	<u>[23]</u>	<u>[23]</u>	<u>[23]</u>	<u>[23]</u>	<u>2</u>	<u>[23]</u>	<u>[23]</u>
*** [See Prior Text In 040901 – 120806]									

ENDNOTES:

[1] – [22] ...

[23] Designated Naturally Dystrophic Waters Segment. The following criteria apply: no more than 20% reduction in the total above-ground wetland productivity as measured by tree, shrub, and/or marsh grass productivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES LOG #: WQ049**

Person

Preparing

Statement: Keith Sepulvado
Phone: (225) 765-0246

Dept.: Environmental Quality
Office: Environmental Assessment

Return

Address: P.O. Box 82178
Baton Rouge, La 70884-2178

Rule

Title: Site-Specific Criteria Adjustment for
Bayou Chinchuba and Tchefuncte
River Wetlands (LAC 33:IX.1123)

Date Rule

Takes Effect: Upon Promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect of this proposed rule on state or local governmental expenditures is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect on state or local governmental revenue collections is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition or employment is anticipated.

Signature of Agency Head or Designee

LEGISLATIVE FISCAL OFFICER OR DESIGNEE

James H. Brent, Ph.D., Assistant Secretary
Typed Name and Title of Agency Head
or Designee

Date of Signature

Date of Signature

LFO 7/1/94

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The rule is intended to set site-specific criteria for wetlands in the Bayou Chinchuba and Tchefuncte River watersheds. The included wetlands will receive secondarily treated effluent from the City of Mandeville. This rule will result in the creation of two new subsegments: 040805 (Chinchuba Swamp Wetland) and 040806 (East Tchefuncte Marsh Wetland). Tree, shrub, and/or marsh grass productivity are determined to be the appropriate criteria. Designated uses are secondary contact recreation and fish and wildlife propagation. General and numerical criteria not specifically excepted in LAC 33:IX.1123, Table 3 shall apply.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

This action is required to establish protective site-specific criteria and designated uses for the affected Bayou Chinchuba and Tchefuncte River wetlands (Subsegments 040805 and 040806) in Louisiana's water quality standards. A Use Attainability Analysis (UAA) was conducted in accordance with state and federal water quality regulations, policies, and guidance to develop site-specific criteria and designated uses for the wetlands.

- C. Compliance with Act II of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule will not result in any increase in the expenditure of funds to the state.

2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) ____ Yes. If yes, attach documentation.

(b) ____ No. If no, provide justification as to why this rule change should be published at this time

This question is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT**WORKSHEET****I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

No significant increase/decrease in costs to implement this rule is anticipated.

COSTS	FY 03-04	FY 04-05	FY 05-06
PERSONAL SERVICES	0	0	0
OPERATING EXPENSES	0	0	0
PROFESSIONAL SERVICES	0	0	0
OTHER CHARGES	0	0	0
EQUIPMENT	0	0	0
TOTAL	0	0	0
MAJOR REPAIR & CONSTR.	0	0	0
POSITIONS(#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

This is not applicable.

3. Sources of funding for implementing the proposed rule or rule change.

This is not applicable.

SOURCE	FY 03-04	FY 04-05	FY 05-06
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED	0	0	0
FEDERAL FUNDS	0	0	0
OTHER (Specify)	0	0	0
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The Department currently has sufficient funds to implement the amendment.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

No significant impact is anticipated on local governments, including adjustments in workload and paperwork requirements.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

No significant effect on any sources of funding of local governmental units is anticipated to result from the implementation of the proposed rule.

FISCAL AND ECONOMIC IMPACT STATEMENT**WORKSHEET****II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

No significant increase/decrease in revenues is anticipated.

REVENUE INCREASE/DECREASE	FY 03-04	FY 04-05	FY 05-06
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
RESTRICTED FUNDS*	0	0	0
FEDERAL FUNDS	0	0	0
LOCAL FUNDS	0	0	0
TOTAL	0	0	0

*Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

This is not applicable.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

No significant effect on directly affected persons or non-governmental groups is anticipated.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

No significant impact on receipts and/or income is anticipated.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

No significant impact is anticipated on competition or employment in the public or private sector.